

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ROBERT CAVANAGH and JOANNE
CAVANAGH,

Plaintiffs,

MEMORANDUM & ORDER
13-CV-4584 (JS) (SIL)

-against-

FORD MOTOR COMPANY,

Defendant.

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APPEARANCES

For Plaintiffs: Joseph G. Dell, Esq.
Christopher Dean, Esq.
James V. Durgana, Esq.
Dell & Dean, PLLC
1325 Franklin Ave., Suite 100
Garden City, NY 11530

For Defendant: Peter Joseph Fazio, Esq.
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600 Third Ave.
New York, NY 10016

SEYBERT, District Judge:

Currently pending before the Court are: (1) Defendant's motion for sanctions under Federal Rule of Civil Procedure 11 and its request for leave to renew its motion to dismiss Plaintiffs' Amended Complaint under Rule 12(b)(6) (Docket Entry 34); and (2) Magistrate Judge Steven I. Locke's Report and Recommendation, recommending that this Court deny Defendant's motion for sanctions and its request for leave to renew its motion to dismiss (R&R, Docket Entry 47). For the following reasons, the Court ADOPTS the R&R in its entirety.

BACKGROUND

On July 30, 2013, Plaintiffs commenced this products liability action. (See Compl., Not. of Removal Ex. A, Docket Entry 1.)¹ According to Plaintiffs, Mr. Cavanagh sustained injuries when his Ford truck "malfunctioned, failed, [or otherwise] jammed" in some way. (Compl. ¶¶ 10-12.) Plaintiffs asserts four causes of action: (1) negligence (Compl. ¶¶ 1-25); (2) strict products liability for a design defect, manufacturing defect, and failure to warn (Compl. ¶¶ 26-36); (3) breach of express and implied warranty (Compl. ¶¶ 37-42); and (4) loss of consortium on behalf of Mrs. Cavanagh (Compl. ¶¶ 43-46).

On June 11, 2015, Defendant moved for sanctions and requested leave to renew its motion to dismiss Plaintiffs' Amended Complaint. On October 27, 2015, the undersigned referred the motion to Magistrate Judge Steven I. Locke for an R&R as to whether the motion should be granted.

Judge Locke issued his R&R on December 4, 2015, recommending that the Court deny Defendant's motion for sanctions and its request for leave to renew its motion to dismiss. (R&R at 6-14.) To the extent that Plaintiffs' opposition to Defendant's motion is construed as a cross-motion seeking leave to file a

¹ The Complaint can be found at Not. of Removal Ex. A at 9-17. For the purposes of this Memorandum and Order, the Court will use the page numbers generated by the Electronic Case Filing System when referring to the parties' exhibits.

Second Amended Complaint, Judge Locke further recommends that the Court deny that request without prejudice. (R&R at 14-15.)

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Objections were due within fourteen (14) days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Locke's R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

CONCLUSION

For the foregoing reasons, Judge Locke's R&R (Docket Entry 47) is ADOPTED in its entirety. Defendant's motion for sanctions and its request for leave to renew its motion to dismiss Plaintiffs' Amended Complaint (Docket Entry 34) is DENIED. To the extent that Plaintiffs' opposition to Defendant's motion is

construed as a cross-motion seeking leave to file a Second Amended Complaint, their request is DENIED WITHOUT PREJUDICE.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: January 21, 2016
Central Islip, New York